



INDIANA ECONOMIC DEVELOPMENT CORPORATION

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Effective July 1, 2008, the General Assembly revised Indiana Code § 36–7–15.1 (applicable to counties having a consolidated city and local units within those counties) and Indiana Code § 36–7–14 (applicable to all other local government units) (collectively, the “Redevelopment Statute”) to require that the Indiana Economic Development Corporation (“IEDC”) review a proposed expansion of an existing redevelopment project area, urban renewal area, economic development area, or a tax increment financing area (“TIF Area”) located therein (collectively, an “Area”) unless the Area does not generate sufficient revenues to meet the financial obligations of the original project.

An application should include a statement explaining the need to alter the boundary of the Area to include new real property (an “Area Expansion”) along with any supporting documentation. In addition, the application should include the following:

- (1) A description of the proposed economic development project.
- (2) An estimate of the economic impact of the proposed economic development project.
- (3) A financial analysis of the Area, which includes a tax impact statement, projected tax revenues, a listing of all outstanding obligations in the Area and their projected debt service or lease payments, the projected cash flow of the Area, an itemized project budget, and copies of the reports prepared by the Redevelopment Commission for the Area under Indiana Code § 36–7–14–39(b)(3) or Indiana Code § 36–7–15.1–35(f).
- (4) The Area’s original development plan with any approved amendments along with the proposed amendment.
- (5) Any other information considered by the Redevelopment Commission in making its initial findings that the Area should be expanded, and a resolution of the Redevelopment Commission evidencing those findings.
- (6) The maps, plats, parcel information and cost estimates required to be prepared by the Redevelopment Commission under the Redevelopment Statute.

After a review of the application, the IEDC may request that the Redevelopment Commission submit additional information depending upon the reason for the Area Expansion.

The IEDC will consider the merits of each application. The Redevelopment Statute requires that for the IEDC to approve of an Area Expansion the IEDC must issue a finding that the Area Expansion will:

- (1) lead to increased investment in Indiana;
- (2) foster job creation or job retention in Indiana;
- (3) have a positive impact on the unit in which the Area is located; or
- (4) otherwise benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

Based upon the aforementioned criteria, an Area Expansion would need to fall within one of the following categories to qualify for an approval:

- (1) Area Expansions that enable Redevelopment Commissions to use existing or future revenues to attract or retain a current, prospective economic development project that may otherwise locate in another State. Any such Area Expansion must not be overly inclusive and may not be completed until the Redevelopment Commission receives a firm commitment from the project. To the extent that the IEDC is not otherwise involved with the economic development project, the Redevelopment Commission must submit evidence sufficient for the IEDC to determine that the prospect may otherwise locate in a different State.
- (2) Area Expansions that are contemplated by the Area's original development plan, as a clearly defined subsequent phase. This type of expansion must have been specified, mapped and announced when the original development plan was adopted under Indiana Code § 36-7-14-15 or Indiana Code § 36-7-15.1-8 but certain procedural steps were required for the amended area to be included in the Area (ex. annexation, inter-local agreements, additional infrastructure planning, etc.).
- (3) Area Expansions that are administrative in nature, come as a result of a change in the original development plan because of unforeseen changes in conditions or circumstances, or may result in a substantial savings to the unit. Any administrative change may only add a de minimus amount of real property to the Area and be necessary for the proper maintenance of an Area (such as slightly redefining a boundary to be coterminous with a new plat, including surrounding right-of-way or proposed right-of-way, etc.). Area Expansions resulting from a change in the original development plan may include changes in proposed development sites or utility locations, which require different boundaries.
- (4) Area Expansions that will be made for the sole purposes of allowing the Redevelopment Commission or a unit to condemn, acquire, remediate, demolish or improve real property for a bona fide public use or to resolve a public nuisance.

The real property that is proposed to be added (a) must be for a “public use” as defined in Indiana Code § 32–24–4.5–1(a)¹; (b) must have been determined by an enforcement authority under Indiana Code § 36–7–9–2, a certified environmental consultant, or a court of applicable jurisdiction to meet the requirements of real property that may be acquired under Indiana Code § 32–24–4.5–7(1); or (c) must have been acquired by the Redevelopment Commission or the unit under Indiana Code § 32–24–4.5–11 (provided that the remaining portion of the project area is already in an Area).

As a condition of approval, the IEDC may require that an expanded TIF Area’s expiration date be limited or that a portion of the Area be removed if the new real property is added. The IEDC must also determine that the proposed Area Expansion is reasonably necessary to complete the development plan and that the development plan, as amended, meets the requirements of Indiana Code § 36–7–14–15(f) or Indiana Code § 36–7–15.1–8(f), in light of the circumstances.

The IEDC may also withhold approval of any proposed Area Expansion if a Redevelopment Commission fails to comply with the applicable state laws, rules, and regulations related to the establishment or maintenance of Areas within its jurisdiction until such failure has been corrected.

¹ As used in this section, “public use” means the: (1) possession, occupation, and enjoyment of a parcel of real property by the general public or a public agency for the purpose of providing the general public with fundamental services, including the construction, maintenance, and reconstruction of highways, bridges, airports, ports, certified technology parks, intermodal facilities, and parks; (2) leasing of a highway, bridge, airport, port, certified technology park, intermodal facility, or park by a public agency that retains ownership of the parcel by written lease with right of forfeiture; or (3) use of a parcel of real property to create or operate a public utility, an energy utility (as defined in Indiana Code § 8–1–2.5–2), or a pipeline company. The term does not include the public benefit of economic development, including an increase in a tax base, tax revenues, employment, or general economic health.